

# **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION

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MDL No. 1456

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THIS DOCUMENT RELATES TO:  
TRACK 2 SETTLEMENT

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Civil Action: 01-CV-12257-PBS

Judge Patti B. Saris

**DECLARATION OF REBECCA A. BLAKE  
IN SUPPORT OF A CY PRES AWARD OF THE TRACK 2 NET CASH SETTLEMENT  
AMOUNT TO CLASS 1 AND CLASS 3 CONSUMER SETTLEMENT CLASS  
MEMBERS**

I, Rebecca A. Blake, declare as follows:

1. I am a Program Manager for Rust Consulting, Inc. (“Rust”). I am over 21 years of age and am not a party to the above-captioned action (the “Action”). I have personal knowledge of the facts set forth below, and if called as a witness, could and would testify competently and to those facts.

2. I respectfully submit this Declaration in order to provide the Court and the parties with information regarding the distribution of the Net Cash Settlement Amount to date and in support of Class Counsel’s Motion to award the remaining funds in the Track 2, Class 1 and Class 3 Consumer distribution account to a Cy Pres recipient.

3. Rust was retained to process, evaluate, and audit completed and submitted Claim Forms; calculate the *pro rata* share of the Net Settlement Fund Amount for each Settlement Class

Member, and distribute the Net Settlement Fund to Settlement Class Members. (See Declaration of Daniel Coggeshall Regarding Allocation and Distribution of the Net Settlement Fund to Class 1 and Class 3 Consumers and Class 2 and Class 3 Third-Party Payors in the Track Two Settlement, dated July 3, 2012, previously filed with the Court.)

**DESCRIPTION OF INITIAL DISTRIBUTION AND SECOND  
DISTRIBUTION ACTIVITY TO CLASS 1 AND CLASS 3 CONSUMERS**

4. Pursuant to this Court's Order Granting Class Counsel's Motion for Distribution of Track 2 Net Cash Settlement Amount, Rust caused US Bank to issue 57,334 checks to Class 1 Consumer Settlement Class Members and 17,578 checks to Class 3 Consumer Settlement Class Members, totaling 74,912 checks, on July 23, 2012.

5. Pursuant to this Court's Order Granting Class Plaintiffs' Motion for Second Distribution of the Track Two Settlement Fund to Consumer Claimants, Rust caused US Bank to issue 13,678 checks to Class 1 Consumer Settlement Class Members and 612 checks to Class 3 Consumer Settlement Class Members, totaling 14,290 checks, on January 30, 2017. Checks were issued to all Track 2, Class 1 and Class 3 Consumers who cashed their check in the initial distribution **and** whose payment amount fell above the *de minimus* amount of \$20.00.

6. Of these 14,290 checks, 9,716 were cashed by Consumer Class Members, totaling \$712,998.82. As of May 2, 2018, the balance remaining in the Track 2, Class 1 and Class 3 Consumer Net Settlement Fund distribution checking account is \$291,212.02 (the "Class 1 and Class 3 Net Settlement Fund Balance").

7. Since the Second Distribution, Rust has received and responded to inquiries from Track 2, Class 1 and Class 3 Consumer Settlement Class Members concerning the Settlement,

Net Cash Settlement Amount, distributions from the Net Cash Settlement Amount and status of reissues.

### **ADMINISTRATION FEES AND EXPENSES**

8. Rust has provided invoices for professional fees and expenses through December 2016 to, among other things, implement and administer the Settlement in the amount of \$502,654.48, of which \$394,537.72 has been paid from the Settlement Fund and \$108,116.76 has been applied as a credit for data storage fees.

9. Pursuant to the Second Distribution Order, Rust and Class Counsel agreed that Rust would waive the fees and expenses associated with the second distribution; however, Rust requested to recoup fees and expenses from the uncashed funds, up to \$200,000.00. As of July 25, 2018 there is currently \$115,297.46 in unbilled fees (\$44,878.67) and expenses (\$70,418.79), which Rust now seeks to recoup.

### **RECOMMENDATIONS FOR A THIRD DISTRIBUTION**

10. Approximately 4,574 of the Track 2, Class 1 and Class 3 Consumer 2<sup>nd</sup> Distribution checks remain uncashed and are now stale, were returned undeliverable with no further addresses found, or were returned as refused by the Claimant. Class Counsel is requesting that the value of these checks be awarded to Cy Pres recipient, City of Hope.

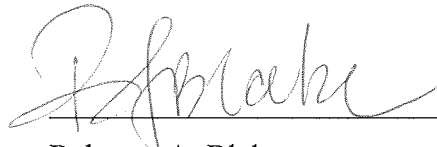
11. In other settlements administered by Rust where the amount of unclaimed funds has been substantially higher than here, Counsel has requested the unclaimed funds to be redistributed to eligible class members. However, in regards to the Track2, Class 1 and Class 3

Consumer Class, the costs associated with such an undertaking would substantially dilute any distribution. In addition, because the cost for a third distribution is usually not anticipated, Rust's fees and expenses, of approximately \$100,000, for performing such a task would typically be paid from the funds, further reducing the amount to be redistributed.

12. Taking the amount remaining (\$291,212.00), less Rust fees and expenses associated to the 2<sup>nd</sup> distribution (\$115,297.46), and the approximate amount for fees and expenses for an additional distribution (\$100,000), the amount remaining would be approximately \$75,000. This would allow for payments of approximately \$7.80. In our experience, checks issued in such a small amount would result in a lower cash rate and are administratively infeasible. Therefore, Class Counsel and Rust recommend the remaining funds be awarded to Cy Pres recipient, City of Hope.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 25<sup>th</sup> day of July, 2018 in Minneapolis, Minnesota.

  
Rebecca A. Blake